

# SENATE BILL No. 442

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-5-2.5; IC 27-8-10-5.1.

**Synopsis:** Individual health insurance waivers. Provides that an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition if the waiver would be in effect for not more than five years and other requirements are met. Specifies that an offer of coverage under a policy that includes such a waiver does not preclude eligibility for a policy issued by the Indiana comprehensive health insurance association. Prohibits the waiver of coverage for a mental health condition.

**Effective:** Upon passage.

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**Paul**

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January 14, 2002, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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# SENATE BILL No. 442



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 27-8-5-2.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in
- 3 this section, the term "policy of accident and sickness insurance" does
- 4 not include the following:
- 5 (1) Accident only, credit, dental, vision, Medicare supplement,
- 6 long term care, or disability income insurance.
- 7 (2) Coverage issued as a supplement to liability insurance.
- 8 (3) Automobile medical payment insurance.
- 9 (4) A specified disease policy issued as an individual policy.
- 10 (5) A limited benefit health insurance policy issued as an
- 11 individual policy.
- 12 (6) A short term insurance plan that:
- 13 (A) may not be renewed; and
- 14 (B) has a duration of not more than six (6) months.
- 15 (7) A policy that provides a stipulated daily, weekly, or monthly
- 16 payment to an insured during hospital confinement, without
- 17 regard to the actual expense of the confinement.



1 (8) Worker's compensation or similar insurance.

2 (9) A student health insurance policy.

3 (b) The benefits provided by an individual policy of accident and  
4 sickness insurance may not be excluded, limited, or denied for more  
5 than twelve (12) months after the effective date of the coverage  
6 because of a preexisting condition of the individual.

7 (c) An individual policy of accident and sickness insurance may not  
8 define a preexisting condition, a rider, or an endorsement more  
9 restrictively than as:

10 (1) a condition that would have caused an ordinarily prudent  
11 person to seek medical advice, diagnosis, care, or treatment  
12 during the twelve (12) months immediately preceding the  
13 effective date of enrollment in the plan;

14 (2) a condition for which medical advice, diagnosis, care, or  
15 treatment was recommended or received during the twelve (12)  
16 months immediately preceding the effective date of enrollment in  
17 the plan; or

18 (3) a pregnancy existing on the effective date of enrollment in the  
19 plan.

20 (d) An insurer shall reduce the period allowed for a preexisting  
21 condition exclusion described in subsection (b) by the amount of time  
22 the individual has continuously served under a preexisting condition  
23 clause for a policy of accident and sickness insurance issued under  
24 IC 27-8-15 if the individual applies for a policy under this chapter not  
25 more than thirty (30) days after coverage under a policy of accident and  
26 sickness insurance issued under IC 27-8-15 expires.

27 **(e) Notwithstanding subsections (b) and (c), an individual policy  
28 of accident and sickness insurance may contain a waiver of  
29 coverage for a specified condition and any complications that arise  
30 from the specified condition if:**

31 **(1) the period for which the exemption would be in effect does  
32 not exceed five (5) years; and**

33 **(2) all of the following conditions are met:**

34 **(A) The insurer provides to the applicant before or at the  
35 time of issuance of the policy a written notice explaining  
36 the waiver of coverage for the specified condition and  
37 complications arising from the specified condition.**

38 **(B) The offer of coverage includes the waiver in a separate  
39 section stating in bold print or on a separate form that the  
40 applicant is receiving coverage with an exception for the  
41 waived condition.**

42 **(C) The offer of coverage does not include more than two**

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- 1 (2) waivers per individual.  
 2 (D) The waiver period is concurrent with and not in  
 3 addition to any applicable preexisting condition limitation  
 4 or exclusionary period.  
 5 (E) Upon written request by the insured, the insurer agrees  
 6 to review the underwriting basis for the waiver and shall  
 7 remove the waiver if the evidence of insurability available  
 8 to the insurer at the time of the review is satisfactory. An  
 9 insured may not make a request under this clause more  
 10 than once in a twelve (12) month period.  
 11 (F) The insurer discloses to the applicant that the applicant  
 12 may decline the offer of coverage and apply for a policy  
 13 issued by the Indiana comprehensive health insurance  
 14 association under IC 27-8-10.

15 The insurer shall require an applicant to initial the written notice  
 16 provided under subdivision (2)(A) and the waiver included in the  
 17 offer of coverage under subdivision (2)(B) to acknowledge  
 18 acceptance of the waiver of coverage. An offer of coverage under  
 19 a policy including a waiver under this subsection does not preclude  
 20 eligibility for an Indiana comprehensive health insurance  
 21 association policy under IC 27-8-10-5.1(a).

22 (f) Notwithstanding subsection (e), an individual policy of  
 23 accident and sickness insurance may not contain a waiver of  
 24 coverage for a mental health condition.

25 SECTION 2. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999,  
 26 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 UPON PASSAGE]: Sec. 5.1. (a) Except as provided in subsections (b)  
 28 and (c), a person is not eligible for an association policy if, at the  
 29 effective date of coverage, the person has or is eligible for coverage  
 30 under any insurance plan that equals or exceeds the minimum  
 31 requirements for accident and sickness insurance policies issued in  
 32 Indiana as set forth in IC 27. **However, an offer of coverage**  
 33 **described in IC 27-8-5-2.5(e) does not affect an individual's**  
 34 **eligibility for an association policy under this subsection.** Coverage  
 35 under any association policy is in excess of, and may not duplicate,  
 36 coverage under any other form of health insurance.

37 (b) Except as provided in IC 27-13-16-4, a person is eligible for an  
 38 association policy upon a showing that:

- 39 (1) the person has been rejected by one (1) carrier for coverage  
 40 under any insurance plan that equals or exceeds the minimum  
 41 requirements for accident and sickness insurance policies issued  
 42 in Indiana, as set forth in IC 27, without material underwriting

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1 restrictions;

2 (2) an insurer has refused to issue insurance except at a rate  
3 exceeding the association plan rate; or

4 (3) the person is a federally eligible individual.

5 For the purposes of this subsection, eligibility for Medicare coverage  
6 does not disqualify a person who is less than sixty-five (65) years of  
7 age from eligibility for an association policy.

8 (c) The board of directors may establish procedures that would  
9 permit:

10 (1) an association policy to be issued to persons who are covered  
11 by a group insurance arrangement when that person or a  
12 dependent's health condition is such that the group's coverage is  
13 in jeopardy of termination or material rate increases because of  
14 that person's or dependent's medical claims experience; and

15 (2) an association policy to be issued without any limitation on  
16 preexisting conditions to a person who is covered by a health  
17 insurance arrangement when that person's coverage is scheduled  
18 to terminate for any reason beyond the person's control.

19 (d) An association policy must provide that coverage of a dependent  
20 unmarried child terminates when the child becomes nineteen (19) years  
21 of age (or twenty-five (25) years of age if the child is enrolled full-time  
22 in an accredited educational institution). The policy must also provide  
23 in substance that attainment of the limiting age does not operate to  
24 terminate a dependent unmarried child's coverage while the dependent  
25 is and continues to be both:

26 (1) incapable of self-sustaining employment by reason of mental  
27 retardation or mental or physical disability; and

28 (2) chiefly dependent upon the person in whose name the contract  
29 is issued for support and maintenance.

30 However, proof of such incapacity and dependency must be furnished  
31 to the carrier within one hundred twenty (120) days of the child's  
32 attainment of the limiting age, and subsequently as may be required by  
33 the carrier, but not more frequently than annually after the two (2) year  
34 period following the child's attainment of the limiting age.

35 (e) An association policy that provides coverage for a family  
36 member of the person in whose name the contract is issued must, as to  
37 the family member's coverage, also provide that the health insurance  
38 benefits applicable for children are payable with respect to a newly  
39 born child of the person in whose name the contract is issued from the  
40 moment of birth. The coverage for newly born children must consist of  
41 coverage of injury or illness, including the necessary care and treatment  
42 of medically diagnosed congenital defects and birth abnormalities. If

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1 payment of a specific premium is required to provide coverage for the  
 2 child, the contract may require that notification of the birth of a child  
 3 and payment of the required premium must be furnished to the carrier  
 4 within thirty-one (31) days after the date of birth in order to have the  
 5 coverage continued beyond the thirty-one (31) day period.

6 (f) Except as provided in subsection (g), an association policy may  
 7 contain provisions under which coverage is excluded during a period  
 8 of three (3) months following the effective date of coverage as to a  
 9 given covered individual for preexisting conditions, as long as medical  
 10 advice or treatment was recommended or received within a period of  
 11 three (3) months before the effective date of coverage. This subsection  
 12 may not be construed to prohibit preexisting condition provisions in an  
 13 insurance policy that are more favorable to the insured.

14 (g) If a person applies for an association policy within six (6)  
 15 months after termination of the person's coverage under a health  
 16 insurance arrangement and the person meets the eligibility  
 17 requirements of subsection (b), then an association policy may not  
 18 contain provisions under which:

19 (1) coverage as to a given individual is delayed to a date after the  
 20 effective date or excluded from the policy; or

21 (2) coverage as to a given condition is denied;

22 on the basis of a preexisting health condition. This subsection may not  
 23 be construed to prohibit preexisting condition provisions in an  
 24 insurance policy that are more favorable to the insured.

25 (h) For purposes of this section, coverage under a health insurance  
 26 arrangement includes, but is not limited to, coverage pursuant to the  
 27 Consolidated Omnibus Budget Reconciliation Act of 1985.

28 **SECTION 3. [EFFECTIVE UPON PASSAGE] IC 27-8-5-2.5, as**  
 29 **amended by this act, applies to a policy of accident and sickness**  
 30 **insurance that is issued or delivered after the effective date of this**  
 31 **act.**

32 **SECTION 4. An emergency is declared for this act.**

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